

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Increase Consumer Choice for Wine

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 28-A MRSA §1355, sub-§3, ¶E is enacted to read:

E. A farm winery may accept orders for wine to be shipped to a consumer or licensee located within or outside the State by mail, telephone, Internet or any electronic or other means. All wine orders shipped to another state are subject to the laws and regulations of the receiving state. As used in this paragraph, "outside the State" means any state other than Maine and any territory or possession of the United States, but does not include a foreign country.

Sec. 2. 28-A MRSA §1403-A is enacted to read:

§ 1403-A. Direct shipment of wine

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Direct shipper" means a winery that has obtained a wine direct shipper license under subsection 2.

B. "Outside the State" means any state other than Maine and any territory or possession of the United States, but does not include a foreign country.

2. Direct shipment of wine. A winery holding a federal basic wine manufacturing permit located within or outside the State may obtain a wine direct shipper license by filing with the Liquor Licensing and Tax Division an application in a form determined by the bureau accompanied by an application fee of not more than \$100 and a copy of the applicant's current federal basic wine manufacturing permit.

3. Direct shipper application. Before sending a shipment to a resident of this State, a direct shipper must file an application for a wine direct shipper license under subsection 2 with the bureau on a form issued by the bureau along with a true copy of its current alcoholic beverage license issued in this State or another state and a \$100 registration fee.

4. Delivery to person 21 years of age or older. Wine shipped pursuant to this section may be shipped only to a person 21 years of age or older and must be for the recipient's personal use only and not for resale. A direct shipper or 3rd-party carrier contracted by the direct shipper may deliver wine only to the person listed on the invoice or an adult member of the household, either of whom must provide a valid photo identification demonstrating proof of age. All containers used for shipment of wine under this section must be conspicuously labeled by the direct shipper with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON 21 YEARS OF AGE OR OLDER REQUIRED FOR DELIVERY." A 3rd-

party carrier contracted by a direct shipper shall register with the bureau as a direct shipper carrier on a form provided by the bureau and shall include on the form a description of the carrier's practice for verifying that recipients of alcoholic beverage shipments are 21 years of age or older.

5. Bottle size and case limit. A direct shipper may not ship a container of wine of less than 750 milliliters and may ship no more than 12 cases, each of which may contain no more than 9 liters or an equivalent volume, to any one recipient address in a calendar year.

6. Prohibited shipping areas. A direct shipper may not ship to any address in an area identified by the bureau as a prohibited shipping area or a local option area.

7. License renewal. A direct shipper may annually renew its wine direct shipper license with the bureau by paying a \$50 renewal fee and providing the bureau with a true copy of its current alcoholic beverage license issued in this State or another state.

8. Payment of state taxes. A direct shipper located outside of this State shall quarterly pay to the bureau all excise and premium taxes and to the Department of Administrative and Financial Services, Bureau of Revenue Services all sales taxes due on sales to residents of the State in the preceding quarter, the amount of such taxes to be calculated as if the sale were in the State.

9. Report. A direct shipper shall report to the bureau twice a year beginning January 1st of each year the name and address of each recipient of wine in the State, the total number of bottles shipped to any one address during the reporting period, the value of each shipment and the 3rd-party carrier used to deliver shipments of wine. Reports required by this subsection must be submitted on forms provided by the bureau.

10. Audit. The bureau may perform an audit of a direct shipper's records relevant to compliance with this section. A direct shipper shall provide copies of any records requested by the bureau within 10 business days of that request.

11. Violation. A direct shipper or 3rd-party carrier who delivers or causes to be delivered wine to a person who has not attained 21 years of age in violation of subsection 3 commits a Class D crime. Direct shipment of wine without a wine direct shipper license under subsection 2 constitutes a violation of the Maine Unfair Trade Practices Act. The bureau may suspend a wine direct shipper license for failure to comply with the shipment limits and reporting requirements required by this section. The bureau may revoke a wine direct shipper license for subsequent failure to comply with the shipment limits and reporting requirements. The bureau may accept payment of an offer in compromise in lieu of suspension; such payments must be determined by rule adopted by the bureau.

12. Adoption of rules. The bureau shall adopt rules to carry out the purposes of this section, including but not limited to rules requiring specific labeling and registration requirements for direct shippers in order to ensure compliance with the laws governing alcoholic beverage containers in Title 32, chapter 28. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 3. 28-A MRSA §2077, sub-§1-A, as enacted by PL 2003, c. 452, Pt. P, §7 and affected by Pt. X, §2, is amended to read:

1-A. Importation of malt liquor or wine into State. ~~A~~ Except as provided in section 1403-A, a person other than a wholesale licensee, small brewery licensee or farm winery licensee may not transport or cause to be transported malt liquor or wine into the State in a quantity greater than 3 gallons for malt liquor or 4 quarts for wine, unless it was legally purchased in the State. The following penalties apply to violations of this subsection.

A. A person who illegally transports into the State wine or malt liquor in a quantity of less than 10 gallons commits a civil violation for which a fine of not more than \$500 must be adjudged.

B. A person who illegally transports into the State wine or malt liquor in a quantity of 10 or more gallons commits a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

Sec. 4. 28-A MRSA §2077, sub-§2, as amended by PL 2003, c. 452, Pt. P, §7 and affected by Pt. X, §2, is further amended to read:

2. Transportation of malt liquor and wine within State. ~~A~~ Except as provided in section 1403-A, a person other than a licensee may not transport malt liquor, in a quantity greater than 3 gallons, or wine, in a quantity greater than 4 quarts, within the State unless it was purchased from an off-premise retail licensee.

A. A person who illegally transports within the State wine or malt liquor in a quantity of less than 10 gallons commits a civil violation for which a fine of not more than \$500 must be adjudged.

B. A person who illegally transports within the State wine or malt liquor in a quantity of 10 or more gallons commits a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

Sec. 5. 28-A MRSA §2077-B, sub-§1, as enacted by PL 1997, c. 501, §6, is amended to read:

1. Prohibition. ~~A~~ Except as provided in section 1403-A, a person may not sell, furnish, deliver or purchase liquor from an out-of-state company by mail order.

Sec. 6. 36 MRSA §1754-B, sub-§1, ¶H, as amended by PL 2007, c. 328, §6, is further amended to read:

H. Every person that makes retail sales in this State of tangible personal property or taxable services on behalf of the owner of that property or the provider of those services; and

Sec. 7. 36 MRSA §1754-B, sub-§1, ¶I, as enacted by PL 2007, c. 328, §7, is amended to read:

I. Every person not otherwise required to be registered that sells tangible personal property to the State and is required to register as a condition of doing business with the State pursuant to Title 5, section 1825-B.; and

Sec. 8. 36 MRSA §1754-B, sub-§1, ¶J is enacted to read:

J. Every person that holds a wine direct shipper license under Title 28-A, section 1403-A.

SUMMARY

This bill establishes a license to allow for the direct shipment of wine. The license allows certain in-state and out-of-state wineries to ship up to 12 cases of wine annually to recipients who are 21 years of age or older. The direct shipper or 3rd-party carrier contracted by the shipper must be shown proof of age in order to make a delivery. Wine shipments must be conspicuously labeled that they contain alcohol and may be delivered only to a person 21 years of age or older. The bill requires that a direct shipper is required to pay all applicable taxes, including excise and premium taxes on wine. The bill establishes reporting requirements for direct shippers and lists specific penalties for specific violations of laws governing the direct shipment of wine.